

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795 <div style="text-align: center;">STAFF REPORT</div>	Hearing Date/Agenda Number P.C. 8/25/04 Item: 4.b.	
	File Number CP04-060	
	Application Type Conditional Use Permit	
	Council District 1	
	Planning Area West Valley	
	Assessor's Parcel Number(s) 299-33-002, -005	
PROJECT DESCRIPTION Completed by: Rebekah L. Ross		
Location: Southwest corner of Boynton Avenue and Blackford Avenue		
Gross Acreage: 44. Net Acreage: N/A Net Density: N/A		
Existing Zoning: R-1-8 Residential Existing Use: Private K-12 school and Public High School		
Proposed Zoning: No Change Proposed Use: Private school for preschool and K-12 School		
GENERAL PLAN Completed by: RR		
Land Use/Transportation Diagram Designation Public/Quasi-Public		Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations
SURROUNDING LAND USES AND ZONING Completed by: RR		
North: Single-family and multi-family residential		R-M Residence, A(PD) Planned Development
East: Single-family and multi-family residential		R-1-8 Residence, R-M Residence, A(PD) Planned Development
South: Single-family and multi-family residential		R-M Residence, A(PD) Planned Development
West: Single-family residential		R-1-8 Residence, A(PD) Planned Development
<input type="checkbox"/> Environmental Impact Report found complete <input type="checkbox"/> Negative Declaration circulated on _____ <input type="checkbox"/> Negative Declaration adopted on _____		<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete
FILE HISTORY Completed by: RR		
Annexation Title: Boynton No_9-A		Date: December 27 th , 1957
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
[X] Approval Date: _____ <input type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial <input type="checkbox"/> Uphold Director's Decision		Approved by: _____ <input checked="" type="checkbox"/> Action <input type="checkbox"/> Recommendation
OWNER	APPLICANT	DEVELOPER
Campbell Union High School District 3235 Union Avenue San Jose, CA95124	The Harker School Foundation 500 Saratoga Avenue San Jose, CA 95120	The Harker School Foundation 500 Saratoga Avenue San Jose, CA 95120

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: RR

Department of Public Works

Public Works memorandum is attached.

Other Departments and Agencies

Fire Department; See attached

Strong Neighborhoods Initiative (SNI); See attached

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Harker School Foundation, is requesting a Conditional Use Permit to allow occupancy of a portion of an existing public school facility that is owned by the Campbell Union School District and was formerly occupied by the Kehillah Jewish High School. The Zoning Ordinance requires a Conditional Use Permit for private schools in residential zoning districts.

The proposed private school would include a total projected enrollment of up to 800 students (pre-school and K-12 students), including students enrolled both directly by the applicant and by other private school groups acting as the applicant's subtenants. The applicant is proposing to lease and occupy the existing school facilities, with no new construction or development proposed.

The project site is a flat rectangular parcel, approximately 44-acres in size, which is generally surrounded by single-family and multi-family residential uses. Vehicular access to the site is taken from Blackford Avenue, on the site's northerly property line. The existing school buildings were constructed in 1961 to support an enrollment of approximately 1,800 students. The site includes approximately 117,000 square feet of indoor space consisting of more than 50 classrooms, administrative offices, workshops, two gymnasiums, and other recreational facilities. All of these facilities will become vacant on June 30th, 2005 and will be leased by the applicant starting on July 1st, 2005.

The facility was used as a public high school until the early 1990s. Subsequently, the school district has leased portions of the site to other private tenants, a church and a sports center (both defunct). On June 26th, 2004, the Planning Commission approved Resolution No. 02-068 to allow a private education institution Kehillah Jewish High School, to occupy a vacant portion of the then vacant Blackford High School. Kehillah Jewish High School was approved and a maximum student body of 700 students was allowed.

The only additional land use currently existing on the site is an approximately 180-student alternative high school, known as Boynton High School, operated by the school district at the southeast corner of the site, outside of the applicant's lease area.

Project Description

The applicant is proposing to occupy all of the buildings vacated by Kehillah Jewish High School and the swimming pool on the site for purposes of private education. The applicant is requesting approval for up to 800 students, but has indicated that enrollment for the first year will be approximately 450 to 500 middle school students. No new construction is proposed other than modernization of interior spaces, and normal maintenance and repair.

Regular hours of operation would be between 7:00 am and 10:00 pm Monday through Friday. Weekend and special evening activities will occur between the hours of 8:00 am and 12:00 midnight. Such activities could include those associated with student assemblies, sports activities, social clubs, theatrical performances and graduation ceremonies. The Harker school will not have exclusive use of the sports fields and sports facilities during non-school hours but will use them cooperatively with the Campbell Union High School District.

GENERAL PLAN CONFORMANCE

The San José 2020 General Plan Land Use/Transportation Diagram Public/Quasi-Public (P/QP) category is used to designate public land uses described as joint development projects that include public and private participation, including schools. The proposed private school use is consistent with the site's designation of Public/Quasi-Public in that it is a continuation of the existing use (learning institution). Private schools are an appropriate use in P/QP areas.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from further environmental review under the provisions of the California Environmental Quality Act (CEQA). CEQA provides an exemption (Section 15322) for projects that consist of the adoption, alteration, or termination of educational or training programs, which involve no physical alteration with the exception being interior changes. Change in the grade structure without any proposed changes to the student transportation is included in this exemption. No physical alteration is proposed with this project other than interior modifications.

NO ANALYSIS

The primary issue associated with the proposed project is compatibility with nearby land uses, with emphasis on parking and traffic.

Parking

The Harker Foundation will employ up to a maximum of 111 faculty and staff members on the site. The proposal requests a maximum student population of 800 students. The highest parking requirement would be if the private school would integrate or change its student body population to be completely composed of high school students (secondary school). A private high school requires one parking space per teacher, plus one for each employee and plus one per every five students. If the faculty and staff population were increased to the maximum amount proposed, 111, and if the student body were to change to the secondary school level and increase to the maximum population allowed, 800, a total of two hundred seventy one (271) parking spaces would be required. Currently there are 530 parking spaces available on the overall school site. Approximately 50 of these spaces are required for the existing alternative school on the site. An excessive parking amount of 209 parking spaces is available for uses related to the proposed private school and existing public school.

Traffic

The Director of Public Works performed an in-house traffic analysis for this site in June, 2002 and concluded that the private school, Kehillah Jewish High School, was in conformance with the City of San Jose Transportation Level of Service Policy (City Council Policy 5-3) and a negative declaration was made in respect to traffic impacts.

In July, 2004 the Department of Public Works re-evaluated the original transportation analysis and concluded that the increase of 100 students did not result in the addition of AM or PM peak hour trips and is therefore, in conformance with the City of San Jose Transportation Level of Service Policy (City Council Policy 5-3).

The analysis was based on trip generation rates established by the Institute of Traffic Engineers (ITE), which are the industry standard for assessing the estimated traffic that will result from a given land use. Because private school students are not served by school busses and tend to arrive from a geographic area larger than the immediate neighborhood, private schools are generally considered to generate more traffic than comparably sized public schools. ITE estimates that private high schools generate twice as many peak hour trips as public schools (0.92 and 0.46 AM trips per student, respectively).

According to school district administration, this facility supported a peak enrollment of 1,800 to 1,900 students when it was operating as a public high school. Based on the ITE data, the number of trips expected for the proposed use was determined to be fewer than for the established, previous use of 1,800 public school students, minus the existing 180-student alternative high school that is operated on-site by the school district. The project falls within the "background" condition that was established by the previous public high school on the site, and is therefore in conformance with the LOS Policy. It should be noted that the school district could conceivably, upon expiration of the proposed private school's lease, reinstate a public school with any number of students as a matter of right, with no review by the City.

Adequate circulation space exists on the site for students to be picked up and dropped off in the designated loading area. In addition, the applicants have publicly stated that they intend to offer bus transportation to the school from various points around the Bay Area.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Public/Quasi-Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 Residence Zoning District.
3. Under the provisions of Section 15322 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review.
4. The project proposes a private school with up to 800 kindergarden-12 grade students, to occupy an existing public high school facility designed for up to 1,800 students.
5. The current tenant will vacate the buildings proposed to be leased by the applicant by June 30th, 2005.

6. The Harker Foundation shall begin operation in July 2005.
7. The applicant proposes no new construction, except for interior modification and repairs.
8. A 180-student alternative public high school, not affiliated with the proposal, exists on the site, and will remain during the course of the applicant's occupancy.
9. The number of trips generated by the proposed use is estimated to be less than the previous, established public high school use.
10. The proposed use will require 271 parking spaces per the Zoning Ordinance requirements.
11. The existing alternative school use requires approximately 50 parking spaces, per the Zoning Ordinance requirements.
12. The existing site has 530 parking spaces.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San Jose 2020 General Plan Land Use/Transportation Diagram of the City of San Jose.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit. Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled "Harker School," dated August 25th, 2004 on file with the Department of City Planning and Building and to the San Jose Building Code (San Jose Municipal Code, Title 24).
2. **Expiration of Permit.** This permit shall become null and void after five years of the date of issuance of this permit. Prior to the expiration of this permit, the expiration of this permit may be extended upon the approval of a Permit Adjustment for a period five (5) years.
3. **Maximum Occupancy.** The maximum number of students allowed for this facility is 800.
4. **Hours of Operation.** This facility may operate within the hours of 7:00-10:00 Monday through Friday. Evening and weekend activities associated with student assemblies for sports, social clubs, musical or drama presentations and graduation ceremonies may occur on weekends from 8:00 AM to 12:00 midnight.
5. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
6. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
7. **Lighting.** This permit allows no new on-site lighting.
8. **Tree Removals.** No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
9. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.

10. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
11. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-13864) to the satisfaction of the Director of Public Works:
- a. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - b. **Sanitary/Storm:** Submit a conceptive sanitary sewer plan if construction of new sanitary or storm laterals are proposed with this project.
 - c. **Electrical:** The existing electroliers will be evaluated at street improvement stage. Any necessary street lighting requirements will be included as part of the street improvement plans.
 - d. **Flood (Zone A0, Depths 1):** Project must comply with the Substantial Improvement policy for improvements to existing structures in a Special Flood Hazard Area. If the cost of the proposed improvements exceed 50% of the current market value of the existing structure, then the entire structure must fully comply with the City's Floodplain Management requirements (i.e. elevation above the base flood). Contact Maria Angeles, Floodplain Manager at (408) 277-5161 for more information.
 - e. **Street Improvements:**
 - 1) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
 - 2) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - 3) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
 - f. **Construction Agreement:** The applicant will be required to obtain a Public Works Clearance prior to the issuance of a Building Permit. The clearance will require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
12. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. **Construction Plans.** This permit file number, CP02-060 shall be printed on all construction plans submitted to the Building Division.
 - b. **Emergency Address Card.** The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
13. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.

14. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
15. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
16. **Generators.** This permit does not include approval of any emergency back-up generator on the subject site.
17. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.